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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/597,103

10/13/2006

Nils Kreiling

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EXAMINER

BLACK, MELISSA ANN

ART UNIT

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3612

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/597,103	Applicant(s) KREILING ET AL.	
	Examiner MELISSA A. BLACK	Art Unit 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

4. Claim 1 recites the limitation "the auto body" in line 4. There is insufficient antecedent basis for this limitation in the claim. Should be - -an auto body- -. Also "the outer surface" line 4, should be - -an outer surface- -; "the rear edge" line 6, should be - -a rear edge- -; "the trend" line 6, should be - -a trend- -. To be more clear, examiner would like to suggest "the edge" (15) be called - -the front edge- -. Claim 2, "the adjacent rear roof area" line 2 should be - -an adjacent rear roof area- -; "the additional roof area" line 3 should be - -the rear roof area- -. These example are only a few that examiner will point out distinctly; applicant should use these examples to correct all the claims.

5. Claims 2, 7, 11 and 14 contain the phrases "can then be" and "can be" which render the claims indefinite.

6. Claims 1 and 5 contain the word "trend", which means—*noun. A general inclination or tendency: drift. A direction of movement: course. –verb. To have a specified direction or*

tendency. Webster's II Dictionary Third Edition pp.746. It is unclear as to what is meant by this word in the context of the claims. Examiner is interpreting the trend as the shape of edge.

7. Claim 5 is not fully understood by the examiner and will be examined as best understood. Claims 1-4 and 6-16 will be examined to the best of the ability of one of ordinary skill in the art.

Drawings

8. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "the edge to the body recess is the front edge of the trunk lid" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-9, 13 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat # 5,810,422 to Corder et al.

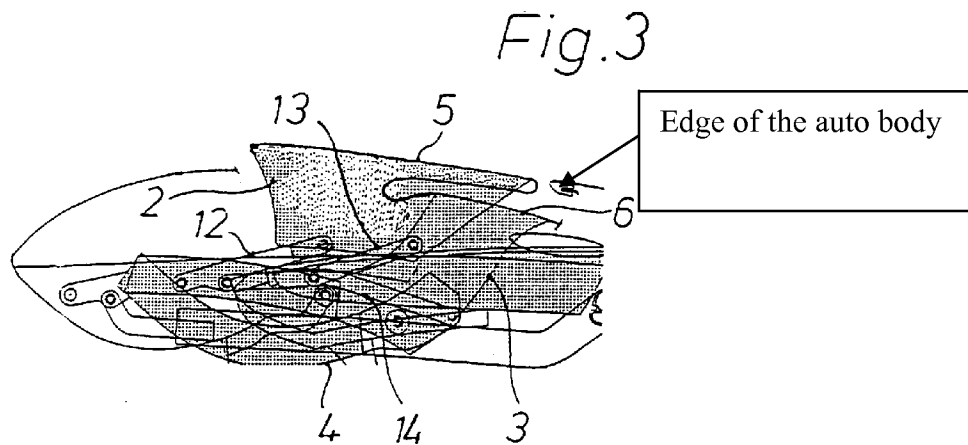
Re Claim 1, Corder et al discloses a cabriolet vehicle (Figure 1) with a roof (10) provided with a flexible cover (20) in at least parts of its area, which includes a front roof area (22), which can be stored in the same orientation as in the closed state in a body recess, which is bounded on the rear by an edge of the auto body, characterized by the fact that the outer surface of the front roof area (22) is separated relative to the rear roof area (24) lying farther rearward and provided with cover (20) and that the rear edge of the front roof area (22) is adapted to the trend of the edge of body bounding the body recess on the rear. Re Claim 2, Corder et al discloses a separation joint between the front roof area (22) and the adjacent rear roof area (24) opens during roof storage, and that the additional roof area (24) adjacent behind the rear edge of the front roof area (22) can then be displaced beneath the front roof area (22, See Figures 3 and 4). Re Claim 3, Corder et al discloses the front roof area (22) in the stored state of roof (10) lies at approximately the same height with said edge that is adjacent behind and an additional auto body outside surface adjacent to it (See Figure 7). Re Claim 4, the remaining gap between the rear edge of the front roof area (22) and the auto body edge bordering the recess is narrower than 40 millimeters (See Figure 7). Re Claim 5 as best understood by the examiner, Corder et al

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discloses the edge of the auto body bordering the auto body recess extends in its trend in a top view so that it includes components on the vehicle transverse sides that point in direction of travel and the rear edge of the front roof area (22) includes components pointing in direction of travel on the sides corresponding to the curvature of the auto body edge. Re Claim 6, Corder et al discloses the front roof area (22) is designed essentially as a rigid assembly (Column 2, ll. 66). Re Claim 7, Corder et al discloses the front roof area (22) includes a plate element (22) that can be fastened on one end to the windshield frame (72) (See Figure 8) and connected on the other end to the additional rear roof area (24) including the cover. Re Claim 8, the plate element (22) includes an essentially convex shape in a top view with cambered front and rear edge (See figure 3). Re Claim 9, Corder et al discloses the plate element (22) is in one piece. Re Claims 13 and 16 Corder et al discloses the edge adjacent to the auto body recess in parts of its areas is the front edge of a cross bar (See Figure 4) of the auto body outer surface (24) arranged in front of a trunk lid.

11. Claims 1-3, 6-7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat # 6,343,829 to Busch.

Re Claim 1, Busch discloses a cabriolet vehicle with a roof (Figure 1) provided with a flexible cover (1) in at least parts of its area, which includes a front roof area (5), which can be stored in the same orientation as in the closed state in a body recess (Figure 3), which is bounded on the rear by an edge of the auto body (See Figure 3), characterized by the fact that the outer surface of the front roof area (5) is separated relative to the rear roof area (6) lying farther rearward and provided with cover (1) and that the rear edge of the front roof area (5) is adapted to the trend of the edge of body bounding the body recess on the rear (See figure below).



Re Claims 2 and 3, Busch discloses a separation joint between the front roof area (5) and the adjacent rear roof area (6) opens during roof storage, and that the additional roof area (6) adjacent behind the rear edge of the front roof area (5) is displaced beneath the front roof area (5) and the front roof area (5) in the stored state of roof lies at approximately the same height with said edge that is adjacent behind and an additional auto body outside surface adjacent to it.

Re Claims 6 and 7, Busch discloses the front roof area (5) is designed essentially as a rigid assembly and the front roof area (5) includes a plate element that can be fastened on one end to the windshield frame and connected on the other end to the additional rear roof area (6) including the cover (1). Re Claim 9, Busch discloses that plate element (5) is in one piece.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

14. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat # 5,810,422 to Corder et al.

Coeder et al fails to disclose the material for the rigid panels is lightweight.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a lightweight material for material choice is an obvious expedient and involves only routine skill in the art.

15. Claims 4, 5, 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat # 6,343,829 to Busch.

Re Claim 4, Busch fails to disclose the remaining gap between the rear edge of the front roof area (5) and the auto body edge bordering the recess is narrower than 40 millimeters.

It would have been obvious to one of ordinary skill in the art at the time the invention was made that Busch would have been capable of having this dimension for changing the size of an object involves only routine skill in the art and holds no patentable weight. Furthermore,

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having minimal space between the front roof area and the edge bordering the recess prevents the nesting of insect and rodents when the vehicle is in storage with the roof open.

Re Claim 5, Busch fails to disclose that the edge of the auto body bordering the auto body recess extends in its trend in a top view so that it includes components on the vehicle transverse sides that point in direction of travel and the rear edge of the front roof area includes components pointing in direction of travel on the sides corresponding to the curvature of the auto body edge.

As best understood, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the trends of Busch to include the traverse sides that point in direction of travel. Meaning, it would have been obvious to one of ordinary skill in the art to have the curve of the rear edge of the front roof area continue to the traverse edge of the front roof area, and same for the front edge of the auto body panel. It can be seen in Figures 1 and 2 of Busch that the rear edge of the front roof area has a trend that would continue to the traverse side pointing in the direction of travel.

Re Claims 8 and 10, Busch fails to disclose that the plate element includes an essentially convex shape in a top view with cambered front and rear edge and consists of a lightweight material.

It would have been obvious to one with ordinary skill in the art at the time the invention was made that plate element of Busch would have been capable of having convex shape in a top view with cambered front and rear edges and consists of a lightweight material, for it is a common expedient in the art for the front edge to match up with the arc of the windshield. As for the rear edge, it can be seen in the figures that the plate element is capable of having an arced

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surface. For the linkage on the side (15) to the rear tip of the plate element (5) indicates that the border is arced. Material is a design choice involving only routine skill in the art.

16. Claims 11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat # 6,343,829 to Busch or US Pat # 5,810, 422 to Corder et al in view of applicants admitted prior art.

Busch and Corder et al fail to disclose that the front end of the rear roof area can be locked to the rear edge of the front roof area.

Applicant admits within the claims that the roof area is “designed in the fashion of an ordinary roof top”, and therefore it would have been obvious to one of ordinary skill in the art to make these roof areas of Busch or Corder et al lock together.

17. Claims 12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat # 6,343,829 to Busch or US Pat # 5,810, 422 to Corder et al in view of US Pat # 6,637,802 to Obendiek.

Busch and Corder et al fail to disclose that the edge of the auto body is a front edge to a trunk lid.

Obendiek teaches that the edge of the auto body is a front edge of a trunk lid (10).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to have the edge be a front edge of a trunk lid as taught by Obendiek on the device of Busch or Corder et al in order to reduce manufacturing cost.

18. Claims 13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat # 6,343,829 to Busch in view of US Pat #5,810,422 to Corder et al.

Busch fails to disclose the edge adjacent to the auto body recess in parts of its areas is the front edge of a cross bar of the auto body outer surface arranged in front of a trunk lid.

Corder et al teaches the edge adjacent to the auto body recess in parts of its areas is the front edge of a cross bar (See Figure 1) of the auto body outer surface arranged in front of a trunk lid.

It would have been obvious to one with ordinary skill in the art at the time the invention was made to use the cross bar as taught by Corder et al on the device of Busch in order to strengthen connection of the roof areas to the vehicle.

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Foreign references supplied to the Examiner by the Applicant from the International Search Report. WO 02/43978 A2, DE10144583A1, and DE4336278A1.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELISSA A. BLACK whose telephone number is (571)272-4737. The examiner can normally be reached on M-F 7:00-3:30 ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. A. B./
Examiner, Art Unit 3612
2/25/08

/Dennis H. Pedder/
Primary Examiner, Art Unit 3612